

REMARKS/ARGUMENTS

Claims 21-35, 37 and 40 are pending.

Claims 21-26, 31, 32, 35, 37 and 40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Wilding (US 5,955,029) in view of Murphy (US 5,374,522). Applicants respectfully request reconsideration of this rejection in view of the following arguments.

Claims 21-35, 37 and 40

Applicants respectfully submit that independent claim 21 is novel and patentable over Wilding and Murphy because, for instance, none of the references alone or in combination teach or suggest a device having a lysing chamber containing at least one filter or beads for capturing the cells or viruses in a sample as the sample flows through the lysing chamber.

In the primary reference of Wilding, a cell lysis chamber 22B has piercing protrusions 90 which tear open cells. The lysis chamber does not contain a filter or beads for capturing the cells as sample fluid flows through the chamber 22B. Instead, cells are bound to a wall surface in a separate cell separation chamber 22A positioned upstream of the lysis chamber 22B. Wilding thus fails to teach or suggest the structure recited by Applicants in claim 21. Murphy does not even teach a lysing chamber through which a sample may flow before being directed to a waste chamber. Thus the references taken along or in combination, fail to teach the device recited by Applicants in claim 21.

Applicants' device as recited in claim 21 provides important advantages in concentrating cells to be lysed in the lysing chamber, which greatly increases the sensitivity of a test and detection of nucleic acids present in only a low concentration in the sample.

For at least the foregoing reasons, claim 21 and claims 22-35, 37 and 40 depending therefrom are patentable.

Appl. No. 09/970,434
Amdt. dated August 8, 2005
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group 1641

PATENT

The double-patenting rejections

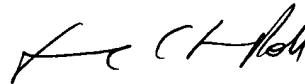
Applicants are submitting a terminal disclaimer herewith to overcome this rejection.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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